

Regular Session, 2012

SENATE BILL NO. 263

BY SENATOR MARTINY

CIVIL PROCEDURE. Provides relative to service of process and the secretary of state.
(8/1/12)

AN ACT

To amend and reenact R.S. 9:3424(B), R.S. 13:3471(1)(c), R.S. 22:177(B), 335, and 442(B), and R.S. 45:200.8(B), relative to service of process; to provide for the manner in which the secretary of state effects service of process; to allow the secretary of state to obtain service of process by certified mail, and to remove the requirement that return receipt be requested; to provide for the secretary of state's service of process on a foreign corporation or foreign limited liability company; to provide for the secretary of state's service of process on an insurer's attorney-in-fact, on a foreign insurer and on an unauthorized insurer; to provide for the secretary of state's service of process on the owner of a public carrier vehicle; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 9:3424 (B) is hereby amended and reenacted to read as follows:

§3424. Service of process

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B. Failure to maintain a designated agent for service of process shall constitute appointment of the secretary of state of this state as the designated agent for service of process. Upon receipt of service of process the secretary of state shall

ascertain the domiciliary post office address of the foreign partnership, and shall send the original papers served to the foreign partnership by registered **or certified** mail, ~~with return receipt requested~~, or by commercial courier as defined in R.S. 13:3204(D), when the person to be served is located outside of this state. The secretary of state shall retain in his office true copies of these papers, on which he shall note the date, the manner and other particulars of the service, and of the disposition made of the original papers.

Section 2. R.S. 13:3471(1)(c) is hereby amended and reenacted to read as follows:

§3471. Supplementary rules of service of process

The following rules supplement those governing the service of citation and other legal process in a civil action or proceeding contained in the Code of Civil Procedure:

(1)(a)

* * *

(c) The secretary of state shall ascertain the domiciliary post office address of the corporation, or limited liability company and shall send the original papers served to the corporation or limited liability company by registered **or certified** mail, ~~with return receipt requested~~, or by commercial courier as defined in R.S. 13:3204(D), when the corporation or person to be served is located outside of this state. The secretary of state shall retain in his office true copies of these papers, on which he shall note the date, the manner and other particulars of the service, and of the disposition made of the original papers.

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Section 3. R.S. 22:177(B), 335 and 442(B) are hereby amended and reenacted to read as follows:

§177. Process

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B. When such process is served upon the secretary of state, duplicate copies of such process shall be delivered to him and he shall immediately forward one copy

of such process to the insurer's attorney-in-fact, by registered **or certified** mail ~~with return receipt requested, postage prepaid,~~ **or by commercial courier as defined in R.S. 13:3204(D)**, giving the day and hour of such service.

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§335. Service of process; secretary of state as attorney

Every foreign or alien insurer shall appoint the secretary of state to be its true and lawful attorney in this state upon whom, or some other person in his office during his absence he may designate, all lawful process in any action or proceeding against such insurer may be served, which shall constitute service on such insurer. Such appointment shall continue in force so long as any contract or other liability of such insurer in this state shall remain outstanding. Whenever such process shall be served upon the secretary of state, he shall forthwith forward a copy of the process by ~~prepaid~~ registered **or certified** mail or by commercial courier as defined in R.S. 13:3204(D), when the person to be served is located outside of this state to the person designated for the purpose by the insurer.

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§442. Legal process against unauthorized insurer

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B. Service of legal process against the insurer may be made in any such action by service upon the secretary of state or some other person in his office whom he may designate during his absence. The secretary of state shall forthwith mail the documents of process served, or a true copy thereof, to the person designated by the insurer in the policy for the purpose by ~~prepaid~~ registered **or certified** mail ~~with return receipt requested~~ **or by commercial courier as defined in R.S. 13:3204(D)**.

The insurer shall have forty days from the date of service upon the secretary of state within which to plead, answer, or otherwise defend the action. Upon service of process upon the secretary of state in accordance with this provision, the court shall be deemed to have jurisdiction in personam over the insurer.

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Section 4. R.S. 45:200.8(B) is hereby amended and reenacted to read as follows:

§200.8. Appointment of secretary of state as agent to receive service of process

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B. When any process or pleadings are served upon the secretary of state, it shall be by duplicate copies, one of which shall be filed in the office of the secretary of state and the other immediately forwarded by the secretary of state by registered **or certified** mail or by commercial courier as defined in R.S. 13:3204(D), when the person to be served is located outside of this state to the address shown on such certificate of such owner against whom the process and pleadings are directed. The secretary of state shall note on the copy retained the date, the manner and other particulars of service, and disposition of the forwarded copy.

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Julie J. Baxter.

DIGEST

Martiny (SB 263)

Present law provides that for service of process on a foreign partnership, the secretary of state must send original papers either by registered mail with return receipt requested or by commercial courier.

Proposed law adds certified mail as an option for secretary of state's service of process on a foreign partnership, and removes the requirement of requesting a return receipt.

Present law provides that the secretary of state may obtain service of process on a foreign corporation or limited liability company by sending original papers either by registered mail with return receipt requested or by commercial courier.

Proposed law removes the requirement that return receipt be requested.

Present law provides that the secretary of state's service of process on an insurer's attorney-in-fact may be by registered mail with return receipt requested, postage prepaid, or by commercial courier.

Proposed law provides that the secretary of state may obtain service of process on an insurer's attorney-in-fact by registered or by certified mail, and removes the requirement that return receipt be requested.

Present law provides that the secretary of state may obtain service of process on a foreign insurer by prepaid registered mail or by commercial courier.

Proposed law removes the requirement for prepaid mailing and authorizes the secretary of state to use either registered or certified mail, or commercial courier, in order to obtain service of process on a foreign insurer.

Present law provides for the secretary of state to obtain service of process on an

unauthorized insurer either by prepaid registered or certified mail with return receipt requested or by commercial courier.

Proposed law removes the requirement for prepaid mailing and authorizes the secretary of state to use either registered or certified mail, or commercial courier to obtain service of process on an unauthorized insurer. Further removes the requirement that return receipt be requested.

Effective August 1, 2012.

(Amends R.S. 9:3424(B), R.S. 13:3471(1)(c), R.S. 22:177(B), 335, and 442(B), and R.S. 45:200.8(B))